

U.S. DISTRICT COURT
N.D. OF N.Y.
FILED

AUG 20 2010

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Richard-Enrique; Ulloa, Sui Juris, unrepresented
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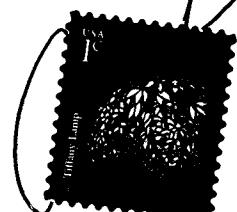
IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,) CASE # 1:10-CR-0321 (TJM)
Plaintiff,)
v.) Memorandum of law in Support
RICHARD ENRIQUE ULLOA,) of Affidavit & Notice of
Defendant.) Denial & Non-Corporate Status

MEMORANDUM OF LAW AND POINTS OF AUTHORITY IN SUPPORT OF
AFFIDAVIT OF NON CORPORATE STATUS

state of New York }
 } §
county of Ulster }

MEMORANDUM OF LAW AND POINTS OF AUTHORITY IN
SUPPORT OF AFFIDAVIT OF NON CORPORATE STATUS



DENIAL OF CORPORATE STATUS

Point A. The Federal Rules of Civil Procedure, Rule 52, applies in Civil and Criminal actions with equal force and effect because criminal is always civil in nature. No civil or criminal cause of action can arise lest there be a contract. See *Eads v. Marks*, 249 P. 2d 257, 260. There is always a presumption that a contract exists and that the responding party is a Corporation. Under Rule 52, which is the same in all states as in the Federal Rules, the Texas Court of appeals (5th Cir) has ruled of the finding of fact, by the Court, that "the failure of an adverse party to deny under oath the allegation that he is incorporated dispenses with the necessity of proof of the fact". Thus, a presumption becomes a finding of fact by the court unless rebutted before trial.

Point B. *Dr. Pepper Co. v. Crow*, 621 S. W.2d 464, 465 (Tex App.-Waco 1981, no Writ) “Plaintiff plead defendant was a corporation. Defendant did not deny by verified pleading pursuant to [TRCP] 52 and 83 ... that it was not a corporation; thus, such fact was established.

Point C. Louisiana Revised Statutes Art. 429 - Corporation existence is presumed unless affidavit of denial is filed before trial.

Point D. A presumption is a rule of Law, Statutory or judicial, by which the finding of a basic fact gives rise to the existence of presumed fact until presumption is rebutted. See *Van Wart v. Cook*, 557 P. 2d 1161. In the Commercial Law of all States, a presumption means that the trier (the Judge) of fact, must find the existence of the fact presumed per FRCP 52, unless and until the evidence is introduced which would support a finding of its non-existence. Arizona Revised Statutes: Title 47 Section 1201 (31) Presumption" or "presumed" means that the trier of fact must find the

1 existence of the fact presumed unless and until evidence is introduced which would
 2 support a finding of its nonexistence. Thus, the Affidavit of Non Corporate Status is
 3 for the purpose of rebutting any presumption that the Affiant is the Corporation
 4 named in the alleged complaint.

5
 6 Point E. Federal Rules Evidence, R.301 Agreement by Acquiescence

7 Rule 301 of the Federal Rules of Evidence states; “...a presumption imposes on the
 8 party against whom it is directed the burden of proof [see 556(d)] of going forward
 9 with evidence to rebut or meet the presumption.”

10
 11 Point F. When the complaint is lodged by the Government for a fine, fee or a tax, all of
 12 which are revenue, they are imposed only on Corporations. See Colonial Pipe Line Co. v.
 13 Triangle, 421 US 100 (1975). Thus, this instant complaint, for the collection of some
 14 form of tax, must have been lodged against a Corporation whose name is similar to my
 15 name. This Affiant rebuts the presumption that this Affiant is the Corporation named in
 16 the alleged complaint and Indictment.

17
 18 Point G. If Affiant is not a Corporation he cannot appear and plead. See West Union Tel.
 19 Co. v Eyser, 2 Colo. 141; Greenwood v. Railroad Co., 123 Mass. 32; Foster v. white
 20 Cloud, 32 Mo. 505; Hobich v. Folger, 20 Wall. 1; Boyce v. M.E. Church, 43 Md. 359;
 21 Folsom v. Star Union Etc. Fright Line, 54 Iowa 490.

22
 23 Point H. When brought into Court by its Corporate name, its existence as a Corporation
 24 is admitted. See Mud Creek Drain Co. v State, 43 Ind. 157; Johnson v. Gibson, 73 Ind.
 25 282; Ewing v. Robeson, 15 Ind. 26; Callender v. Railroad Co., 11 Ohio St. 516; Com. Ins.
 26 Etc. Co. v Taylor, 8 S.C. 107. Compare Ware v. St. Louis Bagging and Rope Co., 47 Ala.
 27 667.

1
2 Point I. Stating not facts, but a conclusion only, is insufficient. It has been held that
3 where the representative of a railroad corporation is served with process, he may plead in
4 abatement in his own name that the Corporation is extinct. See Kelly v. Railroad Co., 2
5 Flip C.C. 581; Callender v. Plainsville Co., 11 Ohio St. 516; Quarrier v. Peabody Co., 10
6 W. Va. 507; Evarts v. Killingworth Co., 20 Conn. 447; Stewart v. Dunn, 12 Mees. & W.
7 655; Stevenson v. Thorn, 13 Mees & W. 149. Where the person is so served with that he
8 may, by plea, deny that he/she sustains any such relation to the Corporation that
9 authorizes the service of process on him/her. See Kelly v. Railroad Co., 2 Flip C.C. 581.
10 In 1886 the Supreme Court did not grant corporate-personhood to any State of the Union
11 or Federal Government and that this doctrine derives from a mistaken interpretation of a
12 Supreme Court reporter's notes. See Santa Clara County v Southern Pacific Railroad
13 Company [118 U.S. 394 (1886)].
14

15 Point J. No laws have been passed by Congress granting that corporations should be
16 treated the same under the constitution as living, breathing human beings. No court
17 decisions, state or federal, held that corporations were "persons" instead of "artificial
18 persons." The Supreme Court did not rule in Santa Clara County v Southern Pacific
19 Railroad Company [118 U.S. 394] (1886) on the issue of corporate personhood. As
20 railroad attorney Sanderson and his two colleagues watched, Chief Justice Morrison
21 Remick Waite told Delmas and his two colleagues the attorneys for the opposing party
22 that: "The court does not wish to hear argument on the question whether the provision in
23 the Fourteenth Amendment to the Constitution, which forbids a state to deny to any
24 person within its jurisdiction the equal protection of the laws, applies to these
25 corporations. We are of the opinion that it does. This written statement, that corporations
26 were "persons" rather than "artificial persons", with an equal footing under the Bill of
27 Rights as humans, was not a formal ruling of the court, but was reportedly a simple

statement by its Chief Justice, recorded by the court recorder". See Vermont Supreme Court building. Volume 118 of United States Reports: Cases adjudged in the Supreme Court at October Term 1885 and October Terms 1886 published in New York in 1886 by Banks & Brothers Publishers, and written by J.C. Bancroft Davis, Supreme Court's Reporter.

TERM PERSON AND OR CITIZEN

Point K. Here is the often expressed understanding from the United States Supreme Court that “in common usage, statutes employing the terms person and corporation are ordinarily construed to exclude the Sovereign man or woman.” *Wilson v. Omaha Tribe*, 442 U.S. 653, 667 (1979) (quoting *United States v. Cooper Corp.*, 312 U.S. 600, 604 (1941). See also *United States v. Mine Workers*, 330 U.S. 258, 275 (1947).

Point L. US Supreme Court in *Luther v Borden*, 48 US1, 12 Led 581: "... The government are but trustees acting under derived authority and have no power to delegate what is not delegated to them. But the people, as the original fountain, might take away what they have delegated and in trust to whom they please. ... The sovereignty in every state resides in the people of the state and they may alter and change their form of government at their own pleasure." US Supreme Court in *Wilson v Omaha India Tribe* 442 US 653, 667 (1979): "In common usage, the term 'person' does not include the sovereign, and statutes employing the word are ordinarily construed to exclude it."

Point M. Affiant is NOT a "United States Person", "United States Resident", "U.S. Citizen", "U.S. Individual", "U.S. Corporation" or "citizen subjected to its jurisdiction"; as such are "words of art"; or corporation created under the laws of the United States or any state of the Union States, the District of Columbia, or any territory, commonwealth

1 or possession of the United States or a foreign state or country, public or private.

2
 3 Point N. Affiant is NOT a “resident of”, “inhabitant of”, a “franchisee of”, “subject
 4 of”, “ward of”, property of”, “chattel of”, or “subject to the jurisdiction of” the State of
 5 the Forum of any United States, corporate State, corporate County, or corporate City, or
 6 Municipal body politic created under the primary authority of Art. I, Sec. 8, Cl.17 and
 7 Art. IV, Sec. 3 Cl. 2 of the Constitution for the united States of America and not
 8 subjected to any legislation created by or under the jurisdiction of any employees,
 9 officers, or agents deriving their authority thereof. Further, Affiant is NOT a subject of
 10 the Administrative and Legislative Article I Courts or bound by precedents of such courts
 11 created by the “United States”, as “Legislation enacted by Congress applicable to the
 12 inferior courts in the exercise of the power under Article III of the Constitution cannot be
 13 affected by legislation enacted by Congress under Art. I, Sec. 8,Cl.17, of the
 14 Constitution, “D.C. Code, Title 11 at p. 13 “an officer, agent, shareholder, franchise or
 15 fiduciary agent, surety, resident inhabitant or domiciled in any corporation.”

16
 17 Point O. Affiant declares, revokes and cancels all of Affiant's signatures on any and
 18 all forms which may be construed to give the Federal Government or any other agency or
 19 department of the United States Government, created under the authority of Article I,
 20 Sec. 8, Cl. 17 and Article IV, Sec. 3, Cl.2 of the Constitution for the United States,
 21 authority or jurisdiction over Affiant. Affiant also, revokes, rescinds and make void ab
 22 initio, all powers of attorney, in fact, in presumption, or otherwise, signed either by
 23 Affiant or anyone else, with or without Affiant's consent, as such power of attorney
 24 pertains to Affiant, by, but not limited to, any and all government/quasi/colorable, public,
 25 Government entities or corporations, on the grounds of constructive fraud, and non-
 26 disclosure of pertinent facts.

Point P. Affiant is NOT a vessel documented under Chapter 121 of Title 46, United States Code or a vessel numbered as provided in Chapter 123 of said Title.

Point Q. Affiant hereby, cancels any presumed election made by the United States Government or any agency or department, thereof, that Affiant is, or ever has been, a citizen, alien citizen or resident of any territory, possession, instrumentality or enclave, under the sovereignty or exclusive jurisdiction of the United States, as defined in the Constitution for the united States of America in Art. I, Sec. 8 Cl. 17 and Art. IV, Sec. 3, Cl. 2. Affiant has no record or evidence that Affiant does not cancel any presumption that Affiant ever voluntarily elected to be treated as such a citizen or resident.

ENEMY OF THE STATE

Point R. Affiant is NOT an enemy of the United States or any corporation created under the laws of the United States or any state of the Union States, the District of Columbia, or any territory, commonwealth or possession of the United States or a foreign state or country, public or private.

Point S. Affiant's name is a Possession of Affiant and is not given to any other, however, the Christian Appellation that Affiant answers to is; Richard-Enrique: of the Ulloa Family, with location of domicile where the Living Man stands, who may be NOTICED at RR1 peek farms, c/o 22 Ridge Mountain Road, non-domestic, non-commercial, Without the U.S., Stone Ridge, New York republic [12484], and is particularly unique to this Affiant, although not affiliated with the "Corporate Body Politic" near the same location and is determined as complete, necessary and sufficient identification evidencing Affiant's neutral standing (15 USC 1681(h)).

LACK OF JURISDICTION

1
2 Point T. This Affidavit was NOT written for the purpose of debating the
3 constitutionality or legality of the Communications Act of 1934, but rather to establish
4 facts exposing the United States Government's lack of jurisdiction in this matter. Affiant
5 is NOT a pirate, affiliated with or an enemy of any public or private corporation,
6 domestic or foreign, but is a neutral body. Any past or future reference to Affiant as such
7 by any agency and its officer(s) will be considered "defamation of character" and will be
8 litigated as such in the foreign jurisdiction where offenders, oppressors, and all Libellees
9 will have no immunity, "Within the Admiralty". 28 USC 1333 or 1337, Bills of Lading
10 Act, The Public Vessel Act, Foreign Sovereign Immunity Act, False Claims Act; see 31
11 U.S.C. §3729(a)(7) and Federal Tort Claims Act. Any of the facts or Laws presented
12 herein are NOT contrary to the Communications Act of 1934, or Court decisions
13 applicable to Affiant. All facts contained herein are based upon ruling case law and un-
14 overruled decisions of the Supreme Court of the united States. None of these facts have
15 been found to be "frivolous" by any court, when argued in their exact and proper context.
16 These are technical facts that, under Commercial Law must be rebutted with "case law"
17 or acquiesced to.

18
19 Point U. Any statements or claims in this Affidavit must be properly rebutted by facts
20 of law, or overriding Article III Supreme Court rulings, and shall not prejudice the lawful
21 validity of other claims not properly rebutted or invalidated by facts of law. Therefore, an
22 Affidavit of Truth, under Commercial Law, can only be satisfied: (i) through a rebuttal
23 Affidavit of Truth, point for point, (ii) by payment, (iii) by agreement, (iv) by resolution
24 by a jury under the rules of Common Law.

25
26 **BIRTH V NATIVITY DATE**
27
28

1 Point V. For reasons explicitly defined within this Point, Affiant denies having, or
 2 ever having had, a “birthday”; but rather, Affiant DID have a “Nativity” upon the Soil
 3 and celebrates his day of Nativity as such.

4

5 Point W. Affiant makes it perfectly clear that Affiant is an Adverse Party denying
 6 under oath the allegation that Affiant is incorporated; as per: *“The failure of an adverse*
7 party to deny under oath the allegation that he is incorporated with the necessity of proof
8 of the fact [it becomes part of the official record].” Galleria Bank v. Southwest
 9 Properties, 498 Southwest 2nd

10

11

12 **DEFINITIONS OF PRESUMPTION**

13 Rebuttable presumptions are in effect inferences that, in the absence of any
 14 controveering evidence, the jury is required to make and, in civil cases, to accept as
 15 established facts. [89. People v Wong Sang Lung, 3 CA 221, 84 P 843.]

16

17 BLACK’S LAW DICTIONARY, 6th Ed. (1990), p. 1267.

18 Rebuttable presumption: In the law of evidence, a presumption which may be
 19 rebutted by evidence. Otherwise called a “disputable” presumption. A species of legal
 20 presumption which holds good until evidence contrary to it is introduced. Beck v.
 21 Kansas City Public Service Co., Mo. App., 48 S.W. 2d 213, 215. It shifts burden of
 22 proof. Heiner v. Donnan, 285 U.S. 312, 52 S. Ct. 358, 362, 76 L.Ed. 772. It gives
 23 particular effect to certain group of facts in absence of further evidence, and
 24 presumption provides a *prima facie* case which shifts to defendant the burden to go
 25 forward with evidence to contradict or rebut fact presumed. Gulle v. Boggs, Fla., 174
 26 So.2d 26, 28.

BLACK'S LAW DICTIONARY, 6th Ed. (1990), p. 1185

Presumption: An inference in favor of a particular fact. A presumption is a rule of law, statutory or judicial, by which finding of a basic fact gives rise to existing of presumed fact, until presumption is rebutted. *Van Wart v. Cook*, Okl. App., 557 P2d 1161, 1163. A legal device which operates in the absence of other proof to require that certain inference be drawn from the available evidence. *Port Terminal & Warehousing Co. v. John S. James Co.*, D. C. GA., 92 F.R. D. 100, 106.

A presumption is an assumption of fact that the law requires to be made from another fact or group of facts found or otherwise established in the action. A presumption is not evidence. A presumption is either conclusive or rebuttable.

I, Richard-Enrique for the Family Ulloa, Declare and Affirm that I am not nor have I ever been a Corporation, Fiction of Law, Fictitious Entity, Corporate Persona, Non-Entity, Legal Entity or a Surety for any of the previously mentioned and that I further Declare and Affirm that I am a live man, American Sovereign as stated in the original Constitution for the United States of America, of which all public servants/public officials are sworn by their Oaths of Office to protect and defend, both State and National, in which is also enumerated the type and size of bonds required by both elected and appointed positions, in order to assure the Sovereign public that their trust and faith in those public servants/public officials are well founded and that their duties will be discharged in the most Honorable means until completion of their term of office.

BIRTH, BERTH AND BORN

USE, MISUSE, AND ABUSE OF WORDS TO CHANGE THE MEANING

1 Webster's 1828 Dictionary says this under "BIRTH": BIRTH, n. berth.
2

3 "Birth", "berth" and "born" all come from the same root of "to bear". When you look up
4 "berth" you find out that every definition has to do with ships. So our "berth-day" is the
5 day we were given a place within the maritime/admiralty jurisdiction of the State.

6 *Webster's New World Dictionary of the English Language - Third College Edition,*
7 copyright 1988, page 132, berth *n.* ...4 a position, place, office, job, etc.

8 We perceive that this "berth" is the "office of person" aboard the SHIP OF STATE
9

10 A Living Soul has a date of Nativity; a Corporation Sole has a date of Birth/Berth.
11

12 There are only two birthday parties in the Scripture. In both cases a man lost his head. At
13 Pharaoh's birthday party in Genesis the baker was hung and at Herod's birthday party in
14 the Gospels John the Baptist was beheaded. So how did a "Christian" culture end up
15 celebrating "Berth"-days as we do? Somebody had a plan, and that plan involved
16 embedding a number (the number of the beast) into our consciousness at a very early age.
17 A possible third "birthday" was mentioned in the Holy Writ; note that the 666 talents of
18 gold mentioned below did NOT include all that was brought by merchant means.

19 1 Kings 10:14 and 2 Chronicles 9:13, "*Now the weight of gold that came to Solomon in*
20 *one year was six hundred threescore and six talents of gold;*"

21
22 Therefore, I inform the nice policeman, the bureaucrat, the "de facto" court system, and
23 all other parties that may inquire, "I have no birthday," even backing that with, "No man
24 can be compelled to incriminate himself."

25
26 **ADDITION U.S. CITIZEN MEANING**
27
28

1
2 ADDITIONAL INFORMATION TO CLARIFY MEANING OF "U.S. CITIZEN"

3 The term "Citizen of the United States", as found in the Qualifications Clauses, is
4 properly constructed to mean a Citizen of ONE OF the States which are united by and
5 under the U.S. Constitution. This construction -- ONE OF -- is reiterated in the following
6 passage from Words and Phrases, to wit:

7 "Citizens of a state, within the removal act [18 Stat. 473, March 3, 1875] means citizens
8 of one of the United States, and the suits contemplated are suits between citizens of one
9 of the states of the Union on one side, and foreign states, or citizens or subjects on the
10 other." citing *Roberts v. Pacific & A. Ry. & Navigation Co.*, 121 F. 785, 789, 58 C.C.A.
11 61. (9th Cir. 1903)]

12
13 **CONCLUSION**
14

15 I am not an expert in the law however I do know right from wrong. If there is any
16 human being damaged by any statements herein, if he will inform me by facts I will
17 sincerely make every effort to amend my ways. I hereby and herein reserve the right to
18 amend and make amendment to this document as necessary in order that the truth may be
19 ascertained and proceedings justly determined. If the parties given notice by means of
20 this document have information that would controvert and overcome this Affidavit,
21 please advise me IN WRITTEN AFFIDAVIT FORM within thirty (30) days from receipt
22 hereof providing me with your counteraffidavit, proving with particularly by stating all
23 requisite actual evidentiary fact and all requisite actual law, and not merely the ultimate
24 facts or conclusions of law, that this Affidavit Statement is substantially and materially
25 false sufficiently to change materially my status and factual declarations. Your silence
26 stands as consent to, and tacit approval of, the factual declarations herein being
27 established as fact as a matter of law. May the will of our Heavenly Father Yahvah,
28

1 through the power and authority of the blood of His Son Yahshua be done on Earth as it
2 is in Heaven.

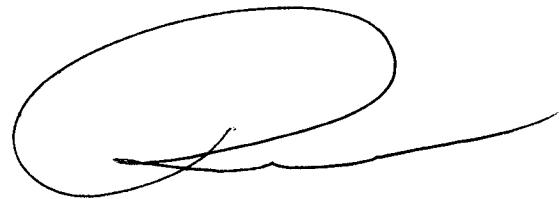
3
4 I pray to our Heavenly Father and not this court that justice be done.

5
6 **Reserving ALL Natural God-Given Unalienable Birthrights,**
7 **Waiving None, Ever,**

8
9 **28 USC §1746**

10 I declare under penalty of perjury under the laws of the United States of
11 America that the foregoing is true and correct. 28 USC §1746

12 Signed on this the eighteenth day of the eight month in the year of our Lord
13 and Savior two thousand ten.



14
15
16
17 Richard-Enrique; Ulloa
18 Sui Juris, unrepresented

19 Date: August 18, 2010

Proof and Evidence of Service

I, Richard-Enrique; Ulloa: declare that I served by filing one copy of the "MEMORANDUM OF LAW IN SUPPORT OF NON CORPORATE STATUS" by "hand-delivered by private carrier-service on "USDC of Northern NY" sent by post-office-first class-mail AND OR CERTIFIED MAIL to the following:

THOMAS A. CAPEZZA Assistant U.S. Attorney Bar #503159 445 Broadway, Room 509 ALBANY, NEW YORK 12207	USDC OF NORTHERN NY COURT CLERK 445 Broadway, Room 509 ALBANY, NEW YORK 12207
First class mail	First class mail

Richard-Enrique; Ulloa
Sui Juris, unrepresented
August 18, 2010

NOTICE TO THE AGENT IS NOTICE TO THE PRINCIPAL NOTICE TO
THE PRINCIPAL IS NOTICE TO THE AGENT